

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DANBURY CELLULAR TELEPHONE CO., A)	
CONNECTICUT CORPORATION D/B/A)	
CELLULAR ONE/UNITED BLUEGRASS)	
CELLULAR CORP., AND HORIZON)	
CELLULAR TELEPHONE COMPANY OF)	
CENTRAL KENTUCKY, L.P., A DELAWARE)	
LIMITED PARTNERSHIP, FOR APPROVAL)	CASE NO. 93-048
OF THE TRANSFER OF THE ASSETS AND)	
LIABILITIES OF DANBURY CELLULAR)	
TELEPHONE CO. TO HORIZON CELLULAR)	
TELEPHONE COMPANY OF CENTRAL)	
KENTUCKY, L.P., AND RELATED)	
FINANCING)	

O R D E R

This matter arising upon petition of Horizon Cellular Telephone Company of Central Kentucky, L.P. ("Horizon Cellular") filed February 8, 1993 pursuant to 807 KAR 5:001, Section 7, for confidential protection of portions of its Business Plan submitted in support of the application on the grounds that disclosure of the information is likely to cause Horizon Cellular competitive injury, and it appearing to this Commission as follows:

This is a proceeding for approval of the transfer of the assets and liabilities of Danbury Cellular Telephone Co. ("Danbury Cellular"), a Connecticut corporation d/b/a Cellular One/United Bluegrass Cellular Corp., to Horizon Cellular, a Delaware limited partnership. Danbury Cellular now provides cellular service in Kentucky RSA Nos. 5, 6, and 8. It is the intention of the parties that upon completion of the transfer Horizon Cellular will continue

to provide the cellular service now being offered by Danbury Cellular.

In support of the application, Horizon Cellular has filed a summary of its business plan for the markets now served by Danbury Cellular. Danbury Cellular, as a nonwireline permittee, faces competition from the wireline permittees in each of its markets. Horizon Cellular maintains that the business plan sought to be protected could be used by those competitors to gain an unfair business advantage.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts 11 categories of information. One category exempted in subparagraph (c) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Each petition for confidential protection by cellular companies, like such petitions from others, should be evaluated on a case-by-case basis to determine whether the subject information


is entitled to protection under the statute. The business plan which is the subject of the petition includes forecasts through the year 2002 concerning projected volumes, revenues, profits, and expenses, limited portions of which Horizon Cellular seeks to protect as confidential. Competitors could use the information to structure their rates and services so as to effectively impair Horizon Cellular's ability to compete. Therefore, the information should be protected as confidential.

This Commission being otherwise sufficiently advised,


IT IS ORDERED that the information sought to be protected by Horizon Cellular shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 5th day of May, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director